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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

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9 Elvira Fernandez, individually and as co- CV 11-02001-PHX-FJM  
personal representative of the Estate of)  
10 Daniel Frank Rodriguez, )  
11 Plaintiff, )  
12 vs. )  
13 City of Phoenix; Richard Allen Chrisman;) )  
14 Jane Doe Chrisman; John Does 1-5; Jane) )  
15 Does 1-5, )  
16 Defendants. )  
17 \_\_\_\_\_)

**ORDER**

18 The court has before it the City of Phoenix's motion to dismiss for lack of standing  
19 (doc. 10) and plaintiff's response (doc. 21). We also have before us the City of Phoenix's  
20 motion to consolidate cases and designate a single statutory plaintiff (doc. 15) and plaintiff's  
21 response (doc. 22). These motions are not fully briefed. Finally, we have the parties'  
22 stipulated motion for leave for plaintiff to file a first amended complaint joining claims by  
23 Frank Rodriquez (doc. 20).

24 Plaintiff's son, Daniel Frank Rodriguez, was shot and killed by Phoenix Police Officer  
25 Richard Chrisman on October 5, 2010. Plaintiff filed this action in the Superior Court of  
26 Arizona in Maricopa County in August, 2011 alleging two counts for 1) wrongful death and  
27 2) constitutional violations pursuant to 42 U.S.C. § 1983. Defendants removed to this court  
28 in October, 2011 (doc. 1). There is a second action pending in this District concerning the

1 death of Daniel Rodriguez filed by Frank Rodriquez, Daniel's father and co-personal  
2 representative of the estate.

3 The parties in this action jointly move for leave for plaintiff to file an amended  
4 complaint. The proposed amendment names Elvira Fernandez as the sole statutory plaintiff  
5 on behalf of all surviving statutory beneficiaries and joins the claims of Frank Rodriquez.  
6 The parties have stipulated that once the amended complaint is filed in this action Mr.  
7 Rodriquez will dismiss his claims in his action. The parties also agree that our granting of  
8 the motion to amend will render the City of Phoenix's pending motions to dismiss and  
9 consolidate moot. Allowing plaintiff to amend the complaint will promote judicial efficiency  
10 by permitting the claims concerning Daniel's death to proceed in a single action. The motion  
11 is timely pursuant to our Rule 16 order (doc. 13).

12       **IT IS ORDERED GRANTING** the parties' stipulated motion for leave for plaintiff  
13 to file a first amended complaint joining claims by Frank Rodriquez (doc. 20). Plaintiff shall  
14 comply with the filing and service requirements of LRCiv 15.1.

IT IS ORDERED DENYING the City of Phoenix's motion to dismiss for lack of standing on grounds of mootness (doc. 10).

17       **IT IS ORDERED DENYING** the City of Phoenix's motion to consolidate cases and  
18 designate a single statutory plaintiff on grounds of mootness (doc. 15).

19 DATED this 7<sup>th</sup> day of March, 2012.

Frederick J. Martone  
Frederick J. Martone  
United States District Judge